

### **REMARKS/ARGUMENTS**

Claims 1-8, 10-16, 18-24, 33-40 and 55-84 are pending in the present application. Claims 74-84 were withdrawn from consideration. Claims 9, 17, 25-32, and 41-54 were cancelled. Claims 1-8, 10-16, 18-24, 33-40 and 55-73 stand rejected. Claims 1, 33, 55, 63, 64, 69, and 72 have now been amended. No new subject matter has been added. Reconsideration of the pending claims, as amended and in view of the following remarks, is respectfully requested.

#### **Claim Rejections – 35 U.S.C. § 103(a)**

Claims 1-8, 10-16, 18-24, 33-40, and 55-73 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent No. 6,887,268 to Butaric et al. (“Butaric”) in view of U.S. Patent No. 6,162,246 to Barone (“Barone”). Such rejections are traversed in part and overcome in part for at least the following reasons.

#### **Independent claims 1 and 33**

Independent claim 1 recites a “stent-graft device” comprising “at least one stent member” and “at least one tubular graft member coupled with the at least one stent member.” The “at least one tubular graft member” further comprises “a main graft member” and “at least one sinusoidal leg member,” which has a “plurality of bends.” Such a “stent-graft device,” having such a “sinusoidal leg member” in particular, is not disclosed by Butaric and Barone, alone or in combination.

Neither Butaric nor Barone disclose any “sinusoidal leg member” having a “plurality of bends.” The Final Office Action characterizes Butaric as disclosing sinusoidal leg members 11a/11b, each having a plurality of bends. The Final Office Action relies on the “stent 40” shown by Figure 5 of Butaric for this characterization. Such reliance is misplaced. Figure 5 shows an example of a “stent 40” of the “endoluminal aneurysm treatment system” of Butaric. (Abstract; col. 11, ln. 54 – col. 12, ln. 20; col. 12, ln. 55 – col. 13, ln. 6; col. 16, lns. 38-57.) While this “stent 40” appears to be composed of undulating stent segments, the “stent 40” is in fact not “sinusoidal” nor does it have a “plurality of bends.” Instead, the “stent 40” is straight

from end to end as shown by Figure 5 and is composed of diamond shaped struts formed into zigzag shaped rings. (Col. 16, lns. 38-57.)

Nevertheless, in order to more clearly distinguish the claimed invention from Butaric and to expedite prosecution, claim 1 has been amended to now recite that the “at least one sinusoidal leg member” has a “sinusoidal outer surface having a plurality of peaks and valleys.” Support for this amendment may be found in at least Figures 5-10 of the application as filed, as well as paragraph 0063 of the specification. No new matter has been added.

Butaric fails to teach or suggest any “sinusoidal leg member” having a “sinusoidal outer surface having a plurality of peaks and valleys” as now recited by claim 1. Butaric discloses an “endoluminal aneurysm treatment system” (Abstract) comprising two or more prostheses (col. 3, ln. 52 – col. 4, ln. 38; col. 11, ln. 53 – col 14, ln. 2.) None of these prostheses, however, have an outer surface that is “sinusoidal” and has a “plurality of peaks and valleys” as now required by amended claim 1. Regarding the “stent 40” of Figure 5, Butaric discloses that “[t]he interior and/or exterior surfaces of lattice 40 may be covered by or support at least one graft material 60.” (Col. 12, lns. 61-62.) Butaric fails to disclose any “graft material 60” that has an outer surface that is “sinusoidal” and has a “plurality of peaks and valleys” “once deployed” as now required by amended claim 1.

Barone fails to provide the elements missing from Butaric. Barone discloses iliac prostheses having a slight curve, but fails to teach or suggest that his prostheses are sinusoidal and have a plurality of bends as required by claim 1.

Independent claim 33 has similarly been amended as claim 1. Hence, for at least the same reasons as discussed above, claim 33 is also distinguished from Butaric and Barone.

Because the cited references alone or on combination fail to teach or suggest each and every element of the claimed invention, *prima facie* obviousness cannot be established under 35 U.S.C. § 103(a). Applicants respectfully request withdrawal of the obviousness rejection and allowance of independent claims 1 and 33, along with the claims depending therefrom.

Independent claims 55 and 64

Independent claim 55 was also rejected as being obvious over the combination of Butaric in view of Barone.

Claim 55 recites at least one stent member comprising a plurality of expandable members, and that some of the expandable members comprise a self-expanding material and others of the expandable members comprising a balloon-expandable material. While Barone discloses that a balloon may be used to deform a stent (col. 15, line 57) or a stent may be a resilient type with a tendency to expand to its relaxed condition when the stent is released from its compressed condition (col. 15, lines 63-66), neither Butaric nor Barone teach or suggest a stent member having **both** self-expanding material **and** balloon-expandable material as claimed (emphasis added). Barone's stent is either balloon expandable or self-expanding, but not both as required by the claims. To emphasize this point, independent claim 55 further recites that "the self-expanding material and the balloon expandable material being part of the same at least one stent member." The Final Office Action argues that "it is notoriously well known in the art to utilize balloon expansion even with self-expanding material such as nitinol" but fails to any examples of such, let alone any examples where a "self-expanding material" and a different "balloon expandable material" are part of the same "stent member." Hence, Barone fails to teach or suggest the above-discussed limitations of the claimed invention.

Nevertheless, in order to more clearly distinguish the claimed invention from the cited references and to expedite prosecution, claim 55 has been amended to recite that the "balloon-expandable material" is "different from the self-expanding material." Support for this amendment may be found in paragraphs 0021 and 0059 of the application as filed. No new matter has been added. As discussed above, Butaric and Barone disclose stents that may have balloon expandable material or self-expanding material, but the cited references fail to teach or suggest a stent composed of both materials.

Independent claim 64 has similarly been amended as claim 55, therefore for at least the same reasons, claim 64 and the claims depending therefrom are also distinguished from the cited references.

Therefore, because the cited references alone or in combination, fail to teach or suggest each and every element of the claimed invention, *prima facie* obviousness cannot be established under 35 U.S.C. § 103(a). Applicants respectfully request withdrawal of the obviousness rejection and allowance of independent claims 55 and 64, along with the claims depending therefrom.

Dependent claims 63, 69, and 72 have also been amended to more clearly distinguish the claimed features. In particular, claims 63, 69, and 72 have been amended to now recite that the sinusoidal leg member has a sinusoidal outer surface having a plurality of peaks and valleys. Support for these amendments may be found in at least Figures 5-10 of the application as filed, as well as paragraph 0063 of the specification. No new matter has been added.

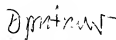
### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Further, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection with this paper to Deposit Account No. 23-2415.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-493-9300.

Respectfully submitted,



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